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Date: December 13, 2002	From: Brion P. Heaney MILLEN, WHITE, ZELANO & BRANIGAN, P.C. Arlington Courthouse Plaza I 2200 Clarendon Blvd., Suite 1400 Arlington, VA 22201 (U.S.A.) (Fax: 703-243-6410)
To: Assistant Commissioner for Patents Attn: Patent Publications	Writer's Direct Dial: (703) 812-3508
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Telephone No.:	
Re: U.S. Patent Application No.: 09/853,042 Title: BIOCEMENTS HAVING IMPROVED COMPRESSIVE STRENGTH Attorney Docket No.: MERCK-2238	
Total No. of Pages: 9; if you do not receive all pages, please call (703) 243-6333	

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE.

In re Application of :

Robert WENZ et al.

Att: PATENT PUBLICATIONS

Serial No.: 09/853,042

Group Art Unit: 1615

Filed: May 11, 2001

Examiner: C. Aspiru

Allowed: July 2, 2002

For: BIOCEMENTS HAVING IMPROVED COMPRESSIVE STRENGTH

LETTER REGARDING SUBMISSION OF PRIORITY DOCUMENTS

Assistant Commissioner for Patents
Washington, D. C. 20231

Sir:

On October 22, 2002, Applicants received a communication from the Office which stated that the Certified Copies of the Priority Document had not yet been received. Applicants respectfully submit that the certified copy of the Priority Document has been filed in this application.

Enclosed is a copy of the application transmittal paper which was filed with the application on May 11, 2001. As can be seen from box 15 on this transmittal, the certified copy of the Priority Document accompanied the application papers.

Also enclosed is a copy of the front page of the certified Priority Document (Applicants' counsel keeps a copy of this page in their files). Also enclosed is an excerpt from the Patent Office filing book of Applicants' counsel for the date May 11, 2001. The fourth entry on this document refers to Merck 2238 (Attorney docket number for the above-identified application). Under Papers Filed for this entry is the term "P.D.", which refers to priority document. Also enclosed is a copy of the receipt postcard stamped by the Patent and Trademark Office on May 11, 2002, with respect to the filing of the application papers for the above-identified application. As can be seen, the box for priority documents is checked on this postcard indicating that the priority document was filed with the application. In light of the above, Applicants filed a "Request for Complete Notice of Allowance" (copy enclosed) on August 22, 2002, requesting

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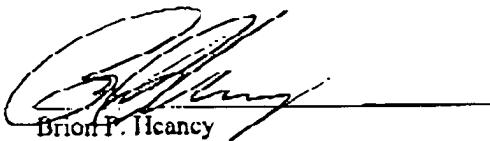
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Michele Bryant 12/13/02

acknowledgement of receipt of the certified copy of the priority document.

For the reasons discussed above, it is respectfully submitted that the communication from the Patent Office issued October 22, 2002, was issued in error. The above evidence demonstrates that Applicants did file a certified copy of the priority document. Thus, it is respectfully submitted that the face of the patent which is to issue on the above identified application should indicate the claim to priority under 35 U.S.C. 119, based on European patent application EP 00110045.2.

Respectfully submitted,



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Attorney Docket No.: MERCK-2238

Date: December 13, 2002

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PTO/SB/05 (11-00)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 C.F.R. 1.53(b))

Attorney Docket No.	MERCK 2238	
First Inventor	Robert WENZ et al.	
Title	BIOCERMENTS HAVING IMPROVED COMPRESSIVE STRENGTH	
Express Mail Label No.		

APPLICATION ELEMENTS See MPEP chapter 600 concerning utility patent application contents.	ADDRESS TO: Assistant Commissioner for Patents Box Patent Application Washington, DC 20231
1. <input type="checkbox"/> Fee Transmittal Form (e.g., PTO/SB/17) <small>Submit an original and a copy for fee processing</small>	
2. <input type="checkbox"/> Applicant claims small entity status <small>See 37 CFR 1.27</small>	
3. <input checked="" type="checkbox"/> Specification [Total Pages <input type="text" value="11"/>] <small>(Preferred arrangement set forth below)</small> <ul style="list-style-type: none"> - Descriptive title of the invention - Cross References to Related Applications - Statement Regarding Pod Sponsored R & D - Reference to sequence listing, a table, or a computer program listing appendix - Background of the Invention - Brief Summary of the Invention - Brief Description of the Drawings (if filed) - Detailed Description - Claim(s) - Abstract of the Disclosure 	
4. <input checked="" type="checkbox"/> Drawing(s) (35 U.S.C. 113) [Total Sheets <input type="text" value="1"/>] <small>See 37 CFR 1.75</small>	
5. Oath or Declaration [Total Pages <input type="text" value="1"/>] <ul style="list-style-type: none"> a. <input type="checkbox"/> Newly executed (original or copy) b. <input type="checkbox"/> Copy from a prior application (37 CFR 1.63 (d)) <small>(for a continuation/divisional with Box 18 completed)</small> i. <input type="checkbox"/> DELETION OF INVENTOR(S) <small>Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b)</small> 	
6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76	
7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)	
8. Nucleotide and/or Amino Acid Sequence Submission <small>(if applicable, all necessary)</small>	
a. <input type="checkbox"/> Computer Readable Form (CRF).	
b. Specification Sequence Listing on: <ul style="list-style-type: none"> i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or ii. <input type="checkbox"/> paper 	
c. <input type="checkbox"/> Statements verifying identity of above copies	
ACCOMPANYING APPLICATION PARTS	
9. <input type="checkbox"/> Assignment Papers (cover sheet & document(s))	
10. <input type="checkbox"/> 37 C.F.R. §3.73(d) Statement <input type="checkbox"/> Power of Attorney <small>(when there is an assignee)</small>	
11. <input type="checkbox"/> English Translation Document (if applicable)	
12. <input type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations	
13. <input type="checkbox"/> Preliminary Amendment	
14. <input type="checkbox"/> Return Receipt Postcard (MPEP 503) <small>(Should be specifically itemized)</small>	
15. <input checked="" type="checkbox"/> Certified Copy of Priority Document(s) <small>(if foreign priority is claimed)</small>	
16. <input type="checkbox"/> Request and Certification under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.	
17. <input type="checkbox"/> Others.	

18. If a CONTINUATING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

Continuation Divisional Continuation-in part (CIP)

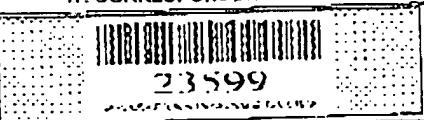
Prior application information: Examiner _____

of prior application No: _____ /

Group / Art Unit _____

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an claim is derived or claims which are incorporated by reference, under Box 18, is considered a part of the disclosure of the accompanying or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

17. CORRESPONDENCE ADDRESS

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Name (Print/Type)	Brion P. Heaney	Registration No. (Attorney/Agent)	32,542
Signature			Date
			May 11, 2001

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